

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 20956 of 2007(T)

PETITIONER:

P.M.ABDUL KAREEM, S/O. MUHAMMED,
AGED 58 YEARS, PROPRIETOR, FATHIMA VENEERS,
MARAMPILLY P.O., ALUVA.

BY ADV. SRI.SIRAJ KAROLY

RESPONDENTS:

1. THE ASSISTANT EXECUTIVE ENGINEER,
K.S.E.B, MAJOR SECTION, MUDIKKAL, PERUMBAVOOR-
683547.
2. THE DEPUTY CHIEF ENGINEER, K.S.E.B.,
PERUMBAVOOR.
3. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, K.S.E.B.,
VYDYUTHI BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SRI.P.P.THAJUDEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C.R.
C.N.RAMACHANDRAN NAIR, J.

.....
W.P.(C) No.20956 of 2007
.....

Dated this the 24th day of July, 2007.

JUDGMENT

This W.P. is filed for direction to the respondents to continue to receive electricity bills through cheques issued by the petitioner. According to the petitioner, petitioner has been making payments through Bank cheques and the same was accepted by KSEB althrough. However, the present Assistant Executive Engineer has demanded payment in cash is the complaint of the petitioner. I heard counsel for the petitioner and Standing Counsel for KSEB.

2. The petitioner has account with the Bank of India and cheques issued by the petitioner are from the petitioner's account with the Marampilly Branch, Vazhakkulam Village. According to petitioner, KSEB is maintaining account with Mudikal Branch of SBT which is also in Vazhakkulam Village. Collection takes only one or two days time and therefore, respondents have no right to object to receipt of cheques being issued by the petitioner is his case. However, Standing Counsel for KSEB has furnished details of cheques given by the petitioner and collection received in KSEB's account with the Bank. It is seen that cheques given by

the petitioner on 27.9.2006 was collected only on 23.10.2006. Similarly cheques issued in November and December 2006 and January and March 2007 got collected in three weeks to five weeks time. Clause 36(2) of the Kerala State Electricity Board(Terms and Conditions of Supply) 2005 provides that the consumer should be given seven days time from the bill date for payment of the bill. Sub-clause (9)(b) of Clause 36 of the Terms and Conditions of Supply provides that LT consumers can make payment through local cheque or demand draft. Obviously it is clear from these provisions that payment made through cheque should be realised without delay. The petitioner has a genuine grievance because the collecting Bank takes inordinate time to realise another Bank's cheque. However, KSEB cannot be held responsible for delay in realisation of cheque by the Bank. What is important for the Board is realisation and credit in their account and not mere receipt of cheque. The Conditions of Supply provides for payment through local cheque only to avoid delay in realisation of cheque amount. In fact Clause 10 provides that HT and EHT consumers should make payment through demand draft or through transfer of funds and such consumers are not allowed to make payment of electricity bills through cheques. It is provided in sub-clause 5 of clause 36 that if payment is belated, interest at twice bank rate shall be charged for the actual number of

days of delay from due date. This clause entitles KSEB to charge interest for the actual days of delay in credit of cheque amount in their account. The local cheque under clause 36(9) is obviously cheque drawn from local branch of a Bank where the KSEB office is located. The KSEB office is stated to be in Mudikal and therefore, the cheque drawn by the petitioner from a Branch at Marampilly cannot be said to be a local cheque. However, the Conditions of Supply does not provide that consumers should issue the cheque of a Bank in which KSEB has account. Counsel for the petitioner contended that the distance between petitioner's Bank and KSEB's office is less than two kilometres. Therefore, according to him, the cheque issued by petitioner from the said Bank-account should be treated as a local cheque. If petitioner's Bank is located within two kilometres of the KSEB office, there will be direction to the first respondent to receive electricity bills through cheques issued by the petitioner from such Branch. However, it is for the petitioner to issue cheques sufficiently early so that credit goes to their account on the due date, failing which interest can be charged for the actual days of delay. However, no interest can be charged for belated presentation of cheque by KSEB. In other words, cheques should be deposited by KSEB with their Bank on the date of receipt or atleast on the next working day of the Bank and if that is done, inordinate delay in

collection by SBT will be to the account of KSEB and the recourse if any for the Board is against the Bank. However, if normal time taken for collection leads to any delay in credit or if petitioner's Bank delays release of payment, petitioner will be liable to pay interest. The W.P. is disposed of directing the respondents to receive cheques subject to above conditions. Besides this, collection charges if any charged, will be adjusted and only balance will be credited against dues.

3. In order to avoid interest, it would be open to the petitioner to make arrangement for payment through Demand Draft, Pay Order or Bankers Cheque or any other instrument, so that delay in collection of cheque does not lead to levy of interest on the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms